



US Army Corps
of Engineers
Seattle District

Special Public Notice



Regulatory Branch
Post Office Box 3755
Seattle, Washington 98124-2255
Telephone (206) 764-3495

Publication Date: 25 January 2002

NATIONWIDE PERMIT REISSUANCE AND PROPOSED REGIONAL CONDITIONS, 401 WATER QUALITY CERTIFICATIONS, AND COASTAL ZONE CONSISTENCY DETERMINATIONS

Regional Conditions. On January 15, 2002, the U.S. Army Corps of Engineers published a notice in the Federal Register reissuing 43 Nationwide Permits (NWP). These permits take effect on March 18, 2002. Seattle District is proposing to revise regional conditions attached to nine of the NWPs for the State of Washington. Regional conditions would be reissued unchanged for the other 34 NWPs and regional general conditions. The proposed revisions reflect comments furnished in response to our request for comments on NWPs and regional conditions proposed in our special public notice dated August 23, 2001. We are now requesting comments on the proposed revised regional conditions.

Anyone wishing to provide comments may obtain a full text copy of existing and proposed regional conditions, as well as the finalized nationwide permits at the Seattle District's internet home page under "Regulatory" at: <http://www.nws.usace.army.mil>. You can also request copies of these documents using the numbers or address listed in the next line. Comments should be sent to the U.S. Army Corps of Engineers, Seattle District, ATTN: Mr. Jonathan Smith, Post Office Box 3755, Seattle, Washington 98124-3755, telephone 206 764-6910 or facsimile 206 764-6602. Comments due: February 25, 2002.

Nationwide Permits (Change proposed for regional condition = **)

- | | |
|---|---|
| 1. Aids to Navigation | 23. Approved Categorical Exclusions |
| 2. Structures in Artificial Canals | 24. State Administered Section 404 Programs |
| 3. Maintenance ** | 25. Structural Discharges |
| 4. Fish and Wildlife Harvesting, Enhancement,
and Attraction Devices and Activities ** | 26. <i>RESERVED</i> |
| 5. Scientific Measurement Devices | 27. Stream and Wetland Restoration Activities |
| 6. Survey Activities | 28. Modifications of Existing Marinas |
| 7. Outfall Structures and Maintenance | 29. Single-family Housing |
| 8. Oil and Gas Structures | 30. Moist Soil Management for Wildlife |
| 9. Structures in Fleeting and Anchorage Areas | 31. Maintenance of Existing Flood Control Facilities |
| 10. Mooring Buoys | 32. Completed Enforcement Actions |
| 11. Temporary Recreational Structures | 33. Temporary Construction, Access Dewatering ** |
| 12. Utility Line Activities | 34. Cranberry Production Activities |
| 13. Bank Stabilization ** | 35. Maintenance Dredging of Existing Basins |
| 14. Linear Transportation Projects ** | 36. Boat Ramps |
| 15. U.S. Coast Guard Approved Bridges | 37. Emergency Watershed Protection /Rehabilitation |
| 16. Return Water from Upland Disposal Areas | 38. Cleanup of Hazardous and Toxic Waste |
| 17. Hydropower Projects | 39. Residential, Commercial, and Institutional
Developments ** |
| 18. Minor Discharges | 40. Agricultural Activities ** |
| 19. Minor Dredging | 41. Reshaping Existing Drainage Ditches |
| 20. Oil Spill Cleanup | 42. Recreational Facilities ** |
| 21. Surface Coal Mining Activities | 43. Stormwater Management Facilities** |
| 22. Removal of Vessels | 44. Mining Activities (Revoked in Washington) |

The Corps has also issued final decision documents for the reissued NWP. These documents are also available at the Seattle District's internet home page and office. The Corps' Northwestern Division Engineer will supplement these NWP decision documents to address decisions concerning regional conditioning of the NWPs.

Section 401 Water Quality Certification and Coastal Zone Consistency: The Department of Ecology (Ecology) is also requesting comments on how Section 401 water quality certification and coastal zone consistency determinations should be determined for projects covered under Nationwide Permits (NWP). Similarly, the U.S. Environmental Protection Agency (EPA) is requesting comments on how Section 401 water quality certification should be determined for three national park and most tribal lands in the State of Washington. Coastal consistency determinations are not required on national park and tribal lands. The Chehalis and Puyallup Tribes, which have assumed Section 401 water quality certifying authority for projects within their reservation boundaries, propose to deny without prejudice Section 401 certifications for all Clean Water Act related NWPs. Each agency/tribe is considering a representative range of approval options: full approval without agency review of specific projects, agency review on some of the projects, and agency review of all projects provided coverage under these NWPs. You can view existing Section 401 water quality certification and coastal zone consistency determinations in Seattle District's Special Public Notice on nationwide permits, dated June 16, 2000. This notice is posted on Seattle District's internet home page listed above.

1. Denial without prejudice. This would require that Ecology review each individual project authorized by the Corps under a NWP for compliance with State water quality certification and individual coastal zone consistency regulations. The EPA would review authorized projects only for individual water quality certification purposes. Based on the review, Ecology/EPA would then either certify that a project meets the requirements, include conditions that a project must meet in order to be certified, or deny certification for projects that will not meet the requirements.

2. Partial denial without prejudice. Ecology/EPA would include specific State/EPA conditions on all or some of the nationwide permits to ensure that State/Federal aquatic protection regulations would be met. Conditions would focus on protection of anadromous fish habitat, protection of higher quality wetlands, and prevention of flood damage.

This approach would allow some projects to proceed without further review once authorized by the Corps under a NWP, provided that the project also complied with State/EPA Section 401 water quality certification and/or coastal zone consistency conditions attached to the NWP. Ecology/EPA would review each individual project that would not comply with the conditions, and then either certify that the project meets the requirements, include conditions that a project must meet in order to be certified, or deny certification.

3. Approved. This would mean that all projects authorized by the Corps under a NWP would also be certified as complying with the State/EPA's Section 401 water quality certification requirements and would be considered consistent with the State's coastal zone management program.

Comments regarding Ecology's water quality certification and coastal zone consistency determinations should be sent to the Department of Ecology, SEA Program, ATTN: Loree' Randall, Post Office Box 47600, Olympia, WA 98504-7600, telephone 360/ 407-6068 or facsimile 360/ 407-6904. Comments are due February 25, 2002.

Comments regarding EPA's or the Tribes' water quality certification determinations should be sent to the U.S. Environmental Protection Agency, Aquatic Resources Unit, ATTN: Mr. Richard Clark, 1200 Sixth Avenue, Seattle, WA 98101-1128, telephone 206/553-6522, email: clark.richard@epa.gov . Comments are due February 25, 2002.

